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Attorneys for Plaintiffs
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11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN JOSE DIVISION

14 ANGEL FRALEY; PAUL WANG; SUSAN
15 MAINZER; JAMES H. DUVAL, a minor, by
and through JAMES DUVAL, as Guardian
16 ad Litem; and W.T., a minor, by and through
RUSSELL TAIT, as Guardian ad Litem;
17 individually and on behalf of all others
similarly situated,

18 Plaintiffs,

19 v.

20 FACEBOOK, INC., a corporation; and
21 DOES 1-100,

22 Defendants.
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Case No. CV 11-01726 LHK

**DECLARATION OF ROBERT S.
ARNS IN SUPPORT OF
MOTION FOR CLASS
CERTIFICATION**

Date: May 24, 2012

Time: 1:30 p.m.

Courtroom: 8

Judge: Hon. Lucy H. Koh

Trial Date: December 3, 2012

1 I, Robert S. Arns, hereby state and declare:

2 1. I am an attorney licensed to practice before all the Federal and State courts located in
3 the State of California, and am President of The Arns Law Firm, attorneys for Plaintiffs
4 herein. I make this Declaration in support of Plaintiffs' Motion for Class Certification.
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6 2. I have been actively involved in the litigation of this matter since its inception.

7 3. I have been in practice as a plaintiffs' attorney in civil actions for 36 years, and have
8 tried over 50 cases to a jury or judge verdict. I have worked on a total of fourteen other class
9 action matters. I teach trial practice at the University of San Francisco School of Law, where I
10 was named Adjunct Professor of the Year in 2011 and Alumni of the Year in 2009. I am the
11 author of the best-selling trial publications *The Evidence Wheel* and *The Trial Wheel*,
12 published by The Rutter Group. I have chaired and continue to chair many Rutter Group
13 seminars. I have been the Trial Lawyer of the Year in San Francisco for SFTLA and was a
14 finalist three times for CAOC Trial Lawyer of the Year. I have presented the ABOTA
15 Masters in Trial on numerous occasions in both Northern and Southern California. I also
16 participate in many San Francisco Trial Lawyer Association functions. I have personally
17 attended all of the depositions in this case, and am personally supervising every aspect of this
18 case and spending over 65% of my legal hours on this case.
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22 4. The Arns Law Firm consists of eight attorneys, five of whom, Robert Arns, Jonathan
23 Davis, Steven Weinmann, Kevin Osborne, and Robert Foss, work on class action cases as a
24 significant amount of their practices. The C.V.s for each attorney are attached hereto as
25 Exhibits 1, 2, 3, 4, and 5 respectively. Mr. Weinmann's practice is devoted virtually
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1 exclusively to class action cases. The law firm also handles numerous other significant cases
2 including class actions and personal catastrophic injury and death actions, all for plaintiffs.

3 5. Jonathan E. Davis is a partner at The Arns Law Firm. He has substantial class action
4 law experience, over the course of most of his over 15 years in practice. Mr. Davis is an
5 accomplished trial lawyer and is extensively involved in the prosecution of this case.

6 6. Steven R. Weinmann, Of Counsel to the firm, has obtained substantial class action
7 law experience over the course of his more than 23 years in practice. Mr. Weinmann has had
8 responsibility for litigation of consumer class action, securities, and antitrust cases under
9 federal and state law in numerous jurisdictions. He has been counsel for the plaintiff on
10 several reported opinions, including *McAdams v. Monier, Inc.*, 182 Cal.App.4th 174 (2010), in
11 which the Court of Appeal reversed a denial of class certification and decided an important
12 issue of law as to standing of class representatives in cases under the Unfair Competition Law,
13 and held that reliance could be inferred from a failure to disclose a material fact under the
14 Consumer Legal Remedies Act. He has also successfully opposed motions for summary
15 judgment, and prepared for and acted as second chair in a trial of a multimillion-dollar private
16 Sherman Act suit for monopolization in the natural gas processing industry.

17 7. Kevin Osborne, an associate with three years of experience and holds a Bachelor's of
18 Arts in Economics and a Master's of International Affairs with an emphasis in Economics. He
19 has studied macroeconomics, macroeconomic policy and performance, microeconomics, and
20 econometrics at the undergraduate level as well as graduate-level economic policy, managerial
21 economics, finance, and accounting. He has also worked on numerous cases involving
22 financial institutions and banks, including the central bank of Mexico. Mr. Osborne has
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1 calculated damages and presented such calculations in over 50 briefs, including highly
2 complex damage calculations in financial institution and wage and hour class actions.

3 8. Robert Foss is a second-year associate in my office. He has previously worked as a
4 computer systems administrator, and holds an undergraduate degree in Business Economics
5 and a Master of Business Administration. He has had graduate-level coursework in
6 economics, data and decision modeling, and finance, among others. He has assisted in data
7 analysis and damage calculation models in multiple class action matters handle by our office,
8 from the case evaluation phase to settlement.
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10 9. The Arns Law Firm was involved (together with co-counsel) in five significant class
11 actions in state and federal court during the course of this litigation alleging understaffing
12 violations at skilled nursing facilities in California. One of those cases has settled, but the
13 other four are in the discovery and pleading challenges stages. The firm is also litigating, with
14 one other firm as co-counsel, a complex action involving some 55 clients.
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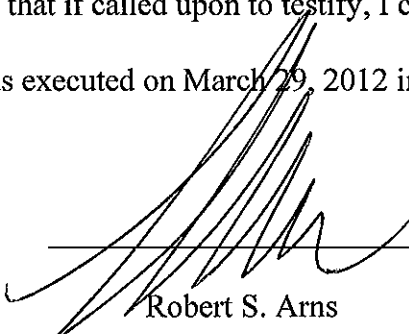
16 10. Of the matters included above, all five Arns class action attorneys were engaged in
17 the litigation of two significant, pending class actions during the course of this litigation, one
18 in the Northern District of California, and each also involving Unfair Competition Law claims
19 and Consumer Legal Remedies Act (Cal. Civil Code section 1750 et seq.) claims. Those cases
20 are *Carducci v. Wachovia Bank*, et al, No. C11-00181 PJH, and one filed in 2009 and pending
21 in Superior Court of Los Angeles, California against a legal services internet provider,
22 *Webster v. LegalZoom.com*, Case No. BC 438637. Both of those cases are currently in the
23 settlement approval process with relief valued in the millions of dollars, and preliminary
24 approval has been granted in both.
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1 11. Thus far in the case, The Arns Law Firm and Jonathan Jaffe Law, our co-counsel
2 firm, have represented the putative Class successfully through a motion to dismiss directed to
3 the claims under various theories, including pre-emption under the CDA, Communications
4 Decency Act, 47 U.S.C. section 230. Class counsel also successfully fought against
5 coordination with other cases against Facebook, before the Judicial Panel on Multidistrict
6 Litigation.

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8 12. These firms have also been actively fighting with Facebook for necessary discovery,
9 and prevailed against a motion for a protective order by which Facebook had sought to delay
10 discovery until the Motion to Dismiss had been decided. Plaintiffs in *Fraleigh* are essentially
11 ready for trial, having served extensive discovery, including taking six depositions of
12 Facebook personnel. Discovery (apart from expert discovery) is largely complete.

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14 13. The Arns Law Firm lawyers, and co-counsel Jonathan Jaffe, are deeply immersed
15 in the facts and legal issues involved in this case, and have been actively and vigorously
16 prosecuting the action. Their success to date, as well as The Arns Law Firm's prior successes
17 in litigating and settling other matters, is evidence that they are adequate counsel to represent
18 the putative Class through trial.
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21 I declare under the penalty of perjury under the laws of the United States of America
22 that the foregoing is true and correct, and that if called upon to testify, I could verify the
23 accuracy of the same. This document was executed on March 29, 2012 in San Francisco,
24 California.

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Robert S. Arns